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EXAMINER

NGUYEN, BRIAN D

ART UNIT	PAPER NUMBER
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2661

DATE MAILED: 03/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/912,227

Applicant(s)

HAMALAINEN, SEPPO

Examiner

Brian D Nguyen

Art Unit

2661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on the amendment filed 2/4/04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-4, 7-14 and 17-20 is/are rejected.
- 7) ☒ Claim(s) 5, 6, 15 and 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3, 7-8, 10-13, 17-18, and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Balachandran et al (6,215,827).

Regarding claims 1-3, 7-8, and 10, Balachandran et al discloses a method of deciding whether to perform link adaptation for communication from a first communication device to a second communication device, the second communication device examining a signal received from the first communication device (mobile, base) and providing a first indication (SIR) of the quality of the signal as received by the second communication device, the method comprising the steps of: a) recording the first indication (SIR) of the quality of the signal as received by the second communication device; b) providing a second indication of the quality of the signal based on the first indication of the quality of the signal; and c) deciding to perform link adaptation based on the second indication of the quality of the signal (see abstract; col. 15, 29-52).

Regarding claims 11-13, 17-18, and 20, claims 11-13, 17-18, and 20 are apparatus claims that have substantially all the limitations of the respective method claims 1-3, 7-8, and 10. Therefore, they are subject to the same rejection.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Balachandran et al (6,215,827) in view of Engstrom et al (6,639,934).

Regarding claims 4 and 14, Balachandran does not specifically disclose changing the SIR target. However, Engstrom discloses the SIR target value can be changed. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to change the SIR target value as taught by Engstrom in the system of Balachandran in order to improve system flexibility.

5. Claims 9 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Balachandran et al (6,215,827) in view of Sebastian Knutsson et al (6,085,108).

Regarding claims 9 and 19, Balachandran does not specifically disclose an RNC performs one of more of the steps. However, to perform one or more of the steps in the mobile, base, or RNC is a matter of design choice. Knutsson discloses a RNC perform one or more of the steps (see col. 3, lines 4-21). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have the RNC performs one or more of the steps as taught by Knutsson in the system of Balachandran in order to meet specific needs such as to minimize the size of a mobile unit.

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*Response to Arguments*

6. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

*Allowable Subject Matter*

7. Claims 5-6 and 15-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Conclusion*

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian D Nguyen whose telephone number is (703) 305-5133. The examiner can normally be reached on 7:30-6:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doug Olms can be reached on (703) 305-4703. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0377.



Brian Nguyen  
Art Unit 2661